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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------------------------------------------------------------------------------------|-------------|----------------------|---------------------|------------------|
| 09/855,688 | 05/16/2001 | Tatsumi Hiramoto | 208674US0 | 9204 |
| 22850 | 7590 | 05/21/2004 | EXAMINER | |
| OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314 | | | SHAY, DAVID M | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3739 | |
| DATE MAILED: 05/21/2004 | | | | |

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/855,688

Applicant(s)

Hiramato

Examiner

d. shay

Group Art Unit

3739

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on February 13, 2004
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-20 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-20 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☒ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____ ☐ Interview Summary, PTO-413
- ☒ Notice of Reference(s) Cited, PTO-892 ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948 ☐ Other _____

Office Action Summary

Art Unit: 3739

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The originally filed disclosure does not provide for a lamp "wherein tin or rare earth metal is not filled " or " does not contain tin or rare earth metal".

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-3, 6, 7, 14, and 16-20 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Rutan et al.

See column 3, line 34 to column 4, line 65.

Claims 1, 3-8, and 10-20 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Masato et al.

See the abstract.

Claims 1, 4, and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rutan et al in combination with TOKYO. Rutan et al teach an arc lamp as claimed except for the use of Rubidium and Potassium therein. TOKYO teaches adding Rubidium halide and Potassium halide to a tube employing Sodium halide. It would have been obvious to the artisan of ordinary skill to use Rubidium halide and Potassium halide in the bulb of Rutan et al, since this provides a

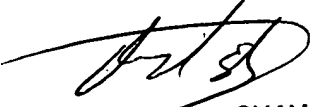
more stable output and longer bulb life, as taught by TOKYO, thus producing a device such as claimed.

Claims 8-10, 13-15 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rutan et al in combination with Clark. Rutan et al teach a lamp with the elements and concentration as claimed. Clark teaches a means for selecting a wavelength in an irradiation apparatus. It would have been obvious to the artisan of ordinary skill to employ the wavelength selection means of Clark in the device if Rutan et al, since this desirable for photodynamic therapy, thus producing and making a device such as claimed.

Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rutan et al in combination with TOKYO as applied to claims, 4, and 5 above, and further in view of Clark. The teachings of Clark and the motivation for combination thereof are essentially those set forth above. Thus it would have been obvious to the artisan of ordinary skill to combine these old and well known teachings to produce a device such as claimed.

Applicant's arguments with respect to claims 1-29 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication should be directed to David Shay at telephone number 308-2215.



DAVID M. SHAY
PRIMARY EXAMINER
GROUP 330

Shay/DI

April 23, 2004